

SENATE BILL NO. 1171

October 01, 2020, Introduced by Senator CHANG and referred to the Committee on Finance.

A bill to amend 1893 PA 206, entitled
"The general property tax act,"
by amending section 78m (MCL 211.78m), as amended by 2014 PA 501.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 78m. (1) ~~Not~~**Subject to subsection (16), not** later than
2 the first Tuesday in July ~~7~~—immediately succeeding the entry of
3 judgment under section 78k vesting absolute title to tax delinquent
4 property in the foreclosing governmental unit, this state is
5 granted the right of first refusal to purchase property at the

1 greater of the minimum bid or its fair market value by paying that
2 amount to the foreclosing governmental unit if the foreclosing
3 governmental unit is not this state. If this state elects not to
4 purchase the property under its right of first refusal, a city,
5 village, or township may purchase for a public purpose any property
6 located within that city, village, or township set forth in the
7 judgment and subject to sale under this section by payment to the
8 foreclosing governmental unit of the minimum bid. If a city,
9 village, or township does not purchase that property, the county ~~in~~
10 ~~which~~ **where** that property is located may purchase that property
11 under this section by payment to the foreclosing governmental unit
12 of the minimum bid. If property is purchased by a city, village,
13 township, or county under this subsection, the foreclosing
14 governmental unit shall convey the property to the purchasing city,
15 village, township, or county within 30 days. If property purchased
16 by a city, village, township, or county under this subsection is
17 subsequently sold for an amount in excess of the minimum bid and
18 all costs incurred relating to demolition, renovation,
19 improvements, or infrastructure development, the excess amount
20 ~~shall~~ **must** be returned to the delinquent tax property sales
21 proceeds account for the year in which the property was purchased
22 by the city, village, township, or county or, if this state is the
23 foreclosing governmental unit within a county, to the land
24 reutilization fund created under section 78n. Upon the request of
25 the foreclosing governmental unit, a city, village, township, or
26 county that purchased property under this subsection shall provide
27 to the foreclosing governmental unit without cost information
28 regarding any subsequent sale or transfer of the property. This
29 subsection applies to the purchase of property by this state, a

1 city, village, or township, or a county ~~prior to~~ **before** a sale held
2 under subsection (2).

3 (2) Subject to ~~subsection~~ **subsections** (1) **and (16)**, beginning
4 on the third Tuesday in July immediately succeeding the entry of
5 the judgment under section 78k vesting absolute title to tax
6 delinquent property in the foreclosing governmental unit and ending
7 on the immediately succeeding first Tuesday in November, the
8 foreclosing governmental unit, or its authorized agent, at the
9 option of the foreclosing governmental unit, shall hold 1 or more
10 property sales at 1 or more convenient locations ~~at which~~ **where**
11 property foreclosed by the judgment entered under section 78k ~~shall~~
12 **will** be sold by auction sale, which may include an auction sale
13 conducted via an internet website. Notice of the time and location
14 of a sale ~~shall~~ **must** be published not less than 30 days before a
15 sale in a newspaper published and circulated in the county ~~in which~~
16 **where** the property is located, if there is one. If no newspaper is
17 published in that county, publication ~~shall~~ **must** be made in a
18 newspaper published and circulated in an adjoining county. ~~Each~~
19 **Subject to subsection (16), each** sale ~~shall~~ **must** be completed
20 before the first Tuesday in November immediately succeeding the
21 entry of judgment under section 78k vesting absolute title to the
22 tax delinquent property in the foreclosing governmental unit.
23 Except as provided in this subsection and subsection (5), property
24 ~~shall~~ **must** be sold to the person bidding the minimum bid, or if a
25 bid is greater than the minimum bid, the highest amount above the
26 minimum bid. The foreclosing governmental unit may sell parcels
27 individually or may offer 2 or more parcels for sale as a group.
28 The minimum bid for a group of parcels ~~shall~~ **must** equal the sum of
29 the minimum bid for each parcel included in the group. The

1 foreclosing governmental unit may adopt procedures governing the
2 conduct of the sale and the conveyance of parcels under this
3 section and may cancel the sale ~~prior to~~ **before** the issuance of a
4 deed under this subsection if authorized under the procedures. The
5 foreclosing governmental unit shall require full payment at the
6 close of each day's bidding or by a date not more than 21 days
7 after the sale. Before the foreclosing governmental unit conveys a
8 parcel sold at a sale, the purchaser shall provide the foreclosing
9 governmental unit with proof of payment to the local tax collecting
10 unit ~~in which~~ **where** the property is located of any property taxes
11 owed on the parcel at the time of the sale. A foreclosing
12 governmental unit shall cancel a sale if unpaid property taxes owed
13 on a parcel or parcels at the time of a sale are not paid within 21
14 days of the sale. If a sale is canceled under this subsection, the
15 foreclosing governmental unit may offer the property to the next
16 highest bidder and convey the property to that bidder under this
17 subsection, subject to the requirements of this subsection for the
18 highest bidder. Not more than 14 days after payment to the
19 foreclosing governmental unit of all amounts required by the
20 highest bidder or the next highest bidder under this subsection,
21 the foreclosing governmental unit shall convey the property by deed
22 to the person bidding the minimum bid, or if a bid is greater than
23 the minimum bid, the highest amount above the minimum bid, or the
24 next highest bidder if the sale to the highest bidder is canceled
25 and the next highest bidder pays the amount required under this
26 section to purchase the property. The deed ~~shall~~ **must** vest fee
27 simple title to the property in the person bidding the highest
28 amount above the minimum bid, unless the foreclosing governmental
29 unit discovers a defect in the foreclosure of the property under

1 sections 78 to 78~~l~~ or the sale is canceled under this subsection or
 2 subsection (5). If this state is the foreclosing governmental unit
 3 within a county, the department of treasury ~~shall be~~**is** responsible
 4 for conducting the sale of property under this subsection and
 5 subsections (4) and (5) on behalf of this state. Before issuing a
 6 deed to a person purchasing property under this subsection or
 7 subsection (5), the foreclosing governmental unit shall require the
 8 person to execute and file with the foreclosing governmental unit
 9 an affidavit under penalty of perjury. If the person fails to
 10 execute and file the affidavit required by this subsection by the
 11 date payment for the property is required under this section, the
 12 foreclosing governmental unit shall cancel the sale. An affidavit
 13 under this section ~~shall~~**must** indicate that the person meets all of
 14 the following conditions:

15 (a) The person does not directly or indirectly hold more than
 16 a de minimis legal interest in any property with delinquent
 17 property taxes located in the same county as the property.

18 (b) The person is not directly or indirectly responsible for
 19 any unpaid civil fines for a violation of an ordinance authorized
 20 by section 4~~l~~ of the home rule city act, 1909 PA 279, MCL 117.4~~l~~, in
 21 the local tax collection unit ~~in which~~**where** the property is
 22 located.

23 (3) For sales held under subsection (2), after the conclusion
 24 of that sale, and ~~prior to~~**before** any additional sale held under
 25 subsection (2), a city, village, or township may purchase any
 26 property not previously sold under subsection (1) or (2) by paying
 27 the minimum bid to the foreclosing governmental unit. If a city,
 28 village, or township does not purchase that property, the county ~~in~~
 29 ~~which~~**where** that property is located may purchase that property

1 under this section by payment to the foreclosing governmental unit
2 of the minimum bid.

3 (4) If property is purchased by a city, village, township, or
4 county under subsection (3), the foreclosing governmental unit
5 shall convey the property to the purchasing city, village,
6 township, or county within 30 days.

7 (5) All property subject to sale under subsection (2) ~~shall~~
8 **must** be offered for sale at 1 or more sales conducted as required
9 by subsection (2). If the foreclosing governmental unit elects to
10 hold more than 1 sale under subsection (2), the final sale held
11 under subsection (2) ~~shall~~**must** be held not less than 28 days after
12 the immediately preceding sale under subsection (2). At the final
13 sale held under subsection (2), the sale is subject to the
14 requirements of subsection (2), except that the minimum bid ~~shall~~
15 **is** not ~~be~~ required. However, the foreclosing governmental unit may
16 establish a reasonable opening bid at the sale to recover the cost
17 of the sale of the parcel or parcels, and the foreclosing
18 governmental unit shall require a person who held an interest in
19 property sold under this subsection at the time a judgment of
20 foreclosure was entered against the property under section 78k to
21 pay the minimum bid for the property before issuing a deed to the
22 person under subsection (2). If the person fails to pay the minimum
23 bid for the property and other amounts by the date required under
24 this section, the foreclosing governmental unit shall cancel the
25 sale of the property.

26 (6) ~~On~~**Subject to subsection (16), on** or before December 1
27 immediately succeeding the entry of judgment under section 78k, a
28 list of all property not previously sold by the foreclosing
29 governmental unit under this section ~~shall~~**must** be transferred to

1 the clerk of the city, village, or township ~~in which~~ **where** the
2 property is located. The city, village, or township may object in
3 writing to the transfer of 1 or more parcels of property set forth
4 on that list. ~~On~~ **Subject to subsection (16), on** or before December
5 30 immediately succeeding the entry of judgment under section 78k,
6 all property not previously sold by the foreclosing governmental
7 unit under this section ~~shall~~ **must** be transferred to the city,
8 village, or township ~~in which~~ **where** the property is located, except
9 those parcels of property to which the city, village, or township
10 has objected. Property located in both a village and a township may
11 be transferred under this subsection only to a village. The city,
12 village, or township may make the property available under the
13 urban homestead act, 1999 PA 127, MCL 125.2701 to 125.2709, or for
14 any other lawful purpose.

15 (7) If property not previously sold is not transferred to the
16 city, village, or township ~~in which~~ **where** the property is located
17 under subsection (6), the foreclosing governmental unit shall
18 retain possession of that property. If the foreclosing governmental
19 unit retains possession of the property and the foreclosing
20 governmental unit is this state, title to the property ~~shall vest~~
21 **vests** in the land bank fast track authority created under section
22 15 of the land bank fast track act, 2003 PA 258, MCL 124.765.

23 (8) A foreclosing governmental unit shall deposit the proceeds
24 from the sale of property under this section into a restricted
25 account designated as the "delinquent tax property sales proceeds
26 for the year _____". The foreclosing governmental unit shall
27 direct the investment of the account. The foreclosing governmental
28 unit shall credit to the account interest and earnings from account
29 investments. ~~Proceeds~~ **The foreclosing governmental unit shall use**

1 **proceeds** in that account ~~shall only be used by the foreclosing~~
2 ~~governmental unit~~ for the following purposes in the following order
3 of priority:

4 (a) The delinquent tax revolving fund ~~shall~~**must** be reimbursed
5 for all taxes, interest, and fees on all of the property, whether
6 or not all of the property was sold.

7 (b) All costs of the sale of property for the year ~~shall~~**must**
8 be paid.

9 (c) Any costs of the foreclosure proceedings for the year,
10 including, but not limited to, costs of mailing, publication,
11 personal service, and outside contractors ~~shall~~**must** be paid.

12 (d) Any costs for the sale of property or foreclosure
13 proceedings for any prior year that have not been paid or
14 reimbursed from that prior year's delinquent tax property sales
15 proceeds ~~shall~~**must** be paid.

16 (e) Any costs incurred by the foreclosing governmental unit in
17 maintaining property foreclosed under section 78k before the sale
18 under this section ~~shall~~**must** be paid, including costs of any
19 environmental remediation.

20 (f) If the foreclosing governmental unit is not this state,
21 any of the following:

22 (i) Any costs for the sale of property or foreclosure
23 proceedings for any subsequent year that are not paid or reimbursed
24 from that subsequent year's delinquent tax property sales proceeds
25 ~~shall~~**must** be paid from any remaining balance in any prior year's
26 delinquent tax property sales proceeds account.

27 (ii) Any costs for the defense of title actions.

28 (iii) Any costs incurred in administering the foreclosure and
29 disposition of property forfeited for delinquent taxes under this

1 act.

2 (g) If the foreclosing governmental unit is this state, any
3 remaining balance ~~shall~~**must** be transferred to the land
4 reutilization fund created under section 78n.

5 (h) In 2008 and each year after 2008, if the foreclosing
6 governmental unit is not this state, **subject to subsection (16)**,
7 not later than June 30 of the second calendar year after
8 foreclosure, the foreclosing governmental unit shall submit a
9 written report to its board of commissioners identifying any
10 remaining balance and any contingent costs of title or other legal
11 claims described in subdivisions (a) through (f). All or a portion
12 of any remaining balance, less any contingent costs of title or
13 other legal claims described in subdivisions (a) through (f), may
14 subsequently be transferred into the general fund of the county by
15 the board of commissioners.

16 (9) Two or more county treasurers of adjacent counties may
17 elect to hold a joint sale of property as provided in this section.
18 If 2 or more county treasurers elect to hold a joint sale, property
19 may be sold under this section at a location outside of the county
20 ~~in which~~**where** the property is located. The sale may be conducted
21 by any county treasurer participating in the joint sale. A joint
22 sale held under this subsection may include or be an auction sale
23 conducted via an internet website.

24 (10) The foreclosing governmental unit shall record a deed for
25 any property transferred under this section with the county
26 register of deeds. The foreclosing governmental unit may charge a
27 fee in excess of the minimum bid and any sale proceeds for the cost
28 of recording a deed under this subsection.

29 (11) For property transferred to this state under subsection

1 (1), a city, village, or township under subsection (6) or retained
 2 by a foreclosing governmental unit under subsection (7), all taxes
 3 due on the property as of the December 31 following the transfer or
 4 retention of the property are canceled effective on that December
 5 31.

6 (12) For property sold under this section, transferred to this
 7 state under subsection (1), a city, village, or township under
 8 subsection (6), or retained by a foreclosing governmental unit
 9 under subsection (7), all liens for costs of demolition, safety
 10 repairs, debris removal, or sewer or water charges due on the
 11 property as of the December 31 immediately succeeding the sale,
 12 transfer, or retention of the property are canceled effective on
 13 that December 31. This subsection does not apply to liens recorded
 14 by the department of ~~environmental quality~~ **environment, Great**
 15 **Lakes, and energy** under this act or the land bank fast track act,
 16 2003 PA 258, MCL 124.751 to 124.774.

17 (13) If property foreclosed under section 78k and held by or
 18 under the control of a foreclosing governmental unit is a facility
 19 as defined under section 20101 of the natural resources and
 20 environmental protection act, 1994 PA 451, MCL 324.20101, ~~prior to~~
 21 **before** the sale or transfer of the property under this section, the
 22 property is subject to all of the following:

23 (a) Upon reasonable written notice from the department of
 24 ~~environmental quality,~~ **environment, Great Lakes, and energy,** the
 25 foreclosing governmental unit shall provide access to the
 26 department of ~~environmental quality,~~ **environment, Great Lakes, and**
 27 **energy,** its employees, contractors, and any other person expressly
 28 authorized by the department of ~~environmental quality~~ **environment,**
 29 **Great Lakes, and energy** to conduct response activities at the

1 foreclosed property. Reasonable written notice under this
2 subdivision may include, but is not limited to, notice by
3 electronic mail or facsimile, if the foreclosing governmental unit
4 consents to notice by electronic mail or facsimile ~~prior to~~ **before**
5 the provision of notice by the department of ~~environmental~~
6 ~~quality~~. **environment, Great Lakes, and energy.**

7 (b) If requested by the department of ~~environmental quality~~
8 **environment, Great Lakes, and energy** to protect public health,
9 safety, and welfare or the environment, the foreclosing
10 governmental unit shall grant an easement for access to conduct
11 response activities on the foreclosed property as authorized under
12 chapter 7 **of article II** of the natural resources and environmental
13 protection act, 1994 PA 451, MCL 324.20101 to 324.20302.

14 (c) If requested by the department of ~~environmental quality~~
15 **environment, Great Lakes, and energy** to protect public health,
16 safety, and welfare or the environment, the foreclosing
17 governmental unit shall place and record deed restrictions on the
18 foreclosed property as authorized under chapter 7 **of article II** of
19 the natural resources and environmental protection act, 1994 PA
20 451, MCL 324.20101 to 324.20302.

21 (d) The department of ~~environmental quality~~ **environment, Great**
22 **Lakes, and energy** may place an environmental lien on the foreclosed
23 property as authorized under section 20138 of the natural resources
24 and environmental protection act, 1994 PA 451, MCL 324.20138.

25 (14) If property foreclosed under section 78k and held by or
26 under the control of a foreclosing governmental unit is a facility
27 as defined under section 20101 of the natural resources and
28 environmental protection act, 1994 PA 451, MCL 324.20101, ~~prior to~~
29 **before** the sale or transfer of the property under this section, the

1 department of ~~environmental quality~~**environment, Great Lakes, and**
 2 **energy** shall request and the foreclosing governmental unit shall
 3 transfer the property to the state land bank fast track authority
 4 created under section 15 of the land bank fast track act, 2003 PA
 5 258, MCL 124.765, if all of the following apply:

6 (a) The department of ~~environmental quality~~**environment, Great**
 7 **Lakes, and energy** determines that conditions at a foreclosed
 8 property are an acute threat to the public health, safety, and
 9 welfare, to the environment, or to other property.

10 (b) The department of ~~environmental quality~~**environment, Great**
 11 **Lakes, and energy** proposes to undertake or is undertaking state-
 12 funded response activities at the property.

13 (c) The department of ~~environmental quality~~**environment, Great**
 14 **Lakes, and energy** determines that the sale, retention, or transfer
 15 of the property other than under this subsection would interfere
 16 with response activities by the department of ~~environmental~~
 17 ~~quality~~**environment, Great Lakes, and energy**.

18 (15) A person convicted for executing a false affidavit under
 19 subsection (5) ~~shall be~~**is** prohibited from bidding for a property
 20 or purchasing a property at any sale under this section.

21 (16) **For qualified redevelopment property otherwise subject to**
 22 **disposition under the process provided for in subsections (1) to**
 23 **(7), all of the following apply:**

24 (a) **The foreclosing governmental unit shall postpone the**
 25 **process of disposition provided for in subsections (1) to (7) for**
 26 **not longer than 1 year after the first Tuesday in July immediately**
 27 **succeeding the entry of judgment under section 78k vesting absolute**
 28 **title to the property in the foreclosing governmental unit.**

29 (b) **During the period of postponement under subdivision (a),**

1 the foreclosing governmental unit shall, in consultation with the
 2 county and the city, village, or township where the property is
 3 located, undertake a public engagement process, the aim of which is
 4 to assess and publicly disclose the environmental condition of the
 5 property and achieve the disposition of the property for its most
 6 beneficial use to the community where it is located.

7 (c) If the public engagement process described in subdivision
 8 (b) does not result in an alternative disposition of the property
 9 within the period of postponement described in subdivision (a), the
 10 foreclosing governmental unit shall institute the process of
 11 disposition provided for in subsections (1) to (7).

12 (17) ~~(16)~~—As used in this section:

13 (a) "Minimum bid" is the minimum amount established by the
 14 foreclosing governmental unit for which property may be sold under
 15 this section. The minimum bid ~~shall~~**must** include all of the
 16 following:

17 (i) All delinquent taxes, interest, penalties, and fees due on
 18 the property. If a city, village, or township purchases the
 19 property, the minimum bid ~~shall~~**must** not include any taxes levied
 20 by that city, village, or township and any interest, penalties, or
 21 fees due on those taxes.

22 (ii) The expenses of administering the sale, including all
 23 preparations for the sale. The foreclosing governmental unit shall
 24 estimate the cost of preparing for and administering the annual
 25 sale for purposes of prorating the cost for each property included
 26 in the sale.

27 (b) "Person" means an individual, partnership, corporation,
 28 association, or other legal entity.

29 (c) "Qualified redevelopment property" means property that

1 meets both of the following:

2 (i) Is classified as commercial real property or industrial
3 real property under section 34c.

4 (ii) Is not less than 100 contiguous acres in size.